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TIMOTHY M. KRAMER, ROBIN LENTZ, JOHN M. MERLO, WARREN
NAKAMURA, BRIAN OSBERG, DAVID RHAMY and SHARON UPDIKE

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

WESTERN DIVISION

NATIONAL CREDIT UNION
ADMINISTRATION BOARD AS
CONSERVATOR FOR WESTERN
CORPORATE FEDERAL CREDIT
UNION,

Plaintiff,

vs.

ROBERT A. SIRAVO, et al.,

Defendants.

No. CV 10-01597 GW (MANx)

**NOTICE OF MOTION AND MOTION
TO DISMISS FIRST AMENDED
COMPLAINT**

Honorable George H. Wu

Courtroom 10

312 North Spring Street

Date: December 20, 2010

Time: 8:30 a.m.

Courtroom: Los Angeles, 10

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE** that, on December 20, 2010, at 8:30 a.m. (a
3 time set by stipulated order, Doc. 89), before the Honorable George H. Wu,
4 United States District Judge for the Central District of California, in
5 Courtroom 10, located at 312 North Spring Street, Los Angeles, California,
6 Defendants **ROBERT JOHN BURRELL, WILLIAM CHENEY,**
7 **GORDON DAMES, ROBERT H. HARVEY, JR., JAMES JORDAN,**
8 **TIMOTHY M. KRAMER, ROBIN LENTZ, JOHN M. MERLO,**
9 **WARREN NAKAMURA, BRIAN OSBERG, DAVID RHAMY** and
10 **SHARON UPDIKE** (“Defendants”) will and hereby do move the Court for an
11 order dismissing the First Amended Complaint dated August 31, 2010
12 (“FAC”) (Doc. 84), for failure to state a claim upon which relief can be
13 granted.

14 This motion is made and based on Rule 12(b)(6) of the Federal Rules of
15 Civil Procedure on the grounds that: (i) the First Claim and Second Claim in
16 the FAC (the only claims asserted against the Defendants) fail to state a claim
17 upon which relief can be granted against any of the Defendants; and (ii) the
18 First Claim and the Second Claim are barred by the applicable statute of
19 limitations as against defendants Chaney, Rhamy and Updike.

20 The motion is based upon this notice of motion and motion, the
21 memorandum filed herewith, any further papers as may be filed in connection
22 with this motion, and all the pleadings and record filed in this action.

23 This motion is made following the conference of counsel pursuant to
24 Local Rule 7-3, which took place on October 27, 2010.

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1 Dated: November 1, 2010.

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19 By /s/ Bruce A. Ericson
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24 John M. Merlo, Warren Nakamura, Brian Osberg,
25 David Rhamy and Sharon Updike
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